

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

**F I L E D**  
United States Court of Appeals  
Tenth Circuit

**APR 30 1997**

**PATRICK FISHER**  
Clerk

ERIC LEVANTER DEMILLARD,

Plaintiff-Appellant,

v.

STATE OF UTAH; CITY OF SALT  
LAKE CITY, UTAH; SALT LAKE  
COUNTY; VALLEY MENTAL  
HEALTH; WEST JORDAN, UTAH  
POLICE DEPARTMENT; CITY OF  
WEST JORDAN; UTAH PUBLIC  
EMPLOYEES ASSOCIATION; KIM  
BEGLARIAN, Officer, University of  
Utah Police Department; KAREN  
BESENHOFER, 1st year practicum  
director, Graduate School of Social  
Work, University of Utah; JUDY  
BRADY, Instructor/Faculty Member,  
Graduate School of Social Work,  
University of Utah; CRAIG BROWN,  
Senior Director of Adult Services,  
Valley Mental Health Administration;  
NANCY COHN, Psychologist;  
GREGG CURTIS, Assistant West  
Jordan City Attorney; DAVID  
DANGERFIELD, Executive Director  
Valley Mental Health Administration;  
KAY L. DEA, Dean, Graduate School  
of Social Work, University of Utah;  
CATHIE DELEWSKI,  
Instructor/Faculty Member, Graduate  
School of Social Work, University of  
Utah; RICHARD ELBING, L.C.S.W.;  
STEPHANIE HARPST,  
Instructor/Faculty Member,

No. 96-4145  
(D.C. No. 94-CV-949)  
(D. Utah)

Graduate School of Social Work,  
University of Utah; STEVEN  
HOMER, West Jordan City Attorney;  
BONNIE LANTZ, Practicum Director,  
Graduate School of Social Work,  
University of Utah; JAN GRAHAM,  
Attorney General; RANDY LINNELL,  
L.C.S.W.; ALAN MENDELSON,  
Psychologist; DOUG MOTTONEN,  
Unit Director, East Valley Office of  
Valley Mental Health and also Mental  
Health Care of Utah; ERIC NIELSEN,  
D.S.W.; PHILIP K. PALMER, Third  
Circuit Court Judge; ROBIN W.  
REESE, Third Circuit Court Judge;  
JIM RICCIARDI, Psychologist;  
WAYNE SHEPHERD, Chief of  
Police, University of Utah Police  
Department; BEN LEMMON, Officer;  
ARTHUR SMITH, President,  
University of Utah; LARRY SMITH,  
Instructor/Faculty Member and  
Admission Director, Graduate School  
of Social Work, University of Utah;  
DANIEL WATERS, Captain,  
University of Utah Police Department;  
O. LANE MCCOTTER, Executive  
Director, Utah State Department of  
Corrections; BEATRICE AVERY,  
L.C.S.W.; SCOTT CARVER, Prison  
Administrator, Utah State Prison; JAY  
LESLIE, Prison Administrator, Utah  
State Prison; BERYL BECKNER,  
L.C.S.W.; WESTON WHATCOTT,  
L.C.S.W.; CHERYL LUKE, Salt Lake  
City Prosecutor; JANICE FROST,  
Assistant Salt Lake City Prosecutor;  
MARSHA ATKIN, Assistant Salt Lake  
City Prosecutor; TODD GODFREY,  
Assistant Salt Lake City Prosecutor;

RALPH ADAMS, Assistant Attorney General; ROSS LARSEN, Investigator; KAYE COLEMAN, Director, Office of Equal Opportunity and Affirmative Action; DENNIS HUNTER, Counselor, Salt Lake County Pre-Trial Services; LON HINDE, Counselor, Salt Lake County Pre-Trial Services; MAUNA GIBSON, Counselor, Salt Lake County Pre-Trial Services; R. SPENCER ROBINSON, Administrative Law Judge; LOU ANN JORGENSEN, Assistant Dean, Graduate School of Social Work, University of Utah; DEPARTMENT OF PROTECTIVE SERVICES AND EXECUTIVE PROTECTION; IVAN ORR, Executive Director, Peace Officer Standards and Training; FRED BAIRD, Certification Supervisor, Peace Officer Standards and Training,

Defendants-Appellees.

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ORDER AND JUDGMENT\*

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Before PORFILIO and LOGAN, Circuit Judges, and BURRAGE, District Judge.\*\*

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

\*\* Honorable Michael Burrage, Chief Judge, United States District Court for the Eastern District of Oklahoma, sitting by designation.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiff Eric Levanter DeMillard brought this action pro se seeking damages for alleged violations of his rights under the Americans with Disabilities Act of 1990 and other federal civil rights laws. The matter was referred to a magistrate judge who concluded that the complaint contained only vague, conclusory allegations lacking sufficient factual details to support plaintiff's claims. The magistrate judge ordered plaintiff to file an amended complaint, provided instructions for filing a factually adequate complaint, and informed plaintiff that not filing an adequate amended complaint could result in dismissal with prejudice. Plaintiff filed an amended complaint. On motions from defendants to dismiss for various reasons including failure to state a claim, the district court concluded that plaintiff had not followed the magistrate judge's instructions and had not filed a complaint with sufficient factual allegations to state any claims against any defendants. The court therefore dismissed the complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff appeals.

We review the district court's dismissal for failure to state a claim de novo, see Kidd v. Taos Ski Valley, Inc. 88 F.3d 848, 854 (10th Cir. 1996), and construe plaintiff's pleadings liberally, see Hall v. Bellmon, 935 F.2d 1106, 1110 (10th

Cir. 1991). We have considered plaintiff's arguments and reviewed the record, and we agree with the district court's conclusion that plaintiff failed to allege sufficient facts to state claims against defendants. We therefore affirm the district court's dismissal of this case for substantially the same reasons as stated in the district court's August 8, 1996 order.

The judgment of the United States District Court for the District of Utah is AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Michael Burrage  
Chief District Judge